



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2021-0052; FRL-8876-02-R3]

#### Approval and Promulgation of Air Quality Implementation Plans;

#### Maryland; Emissions Statement Requirement for the 2015 Ozone National Ambient Air Quality Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision formally submitted by the Maryland Department of the Environment (MDE) on behalf of the State of Maryland. The revision provides the State of Maryland's certification that its existing emissions statement program satisfies the emissions statement requirements of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standard (NAAQS). EPA is approving the State of Maryland's emissions statement program certification for the 2015 ozone NAAQS as a SIP revision in accordance with the requirements of the CAA.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2021-0052. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional

availability information.

**FOR FURTHER INFORMATION CONTACT:** Adam Yarina, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2108. Mr. Yarina can also be reached via electronic mail at [yarina.adam@epa.gov](mailto:yarina.adam@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On June 16, 2021 (86 FR 32006), EPA published a notice of proposed rulemaking (NPRM) proposing approval of a SIP revision for the State of Maryland. In the NPRM, EPA proposed approval of Maryland's certification that Maryland's emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2015 ozone NAAQS. The formal SIP revision was submitted by the State of Maryland, through the Maryland Department of the Environment, on July 6, 2020.

### **II. Summary of SIP Revision and EPA Analysis**

On July 6, 2020, the State of Maryland, through the MDE, submitted a SIP revision to satisfy the emissions statement requirement of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS. EPA first approved Maryland's SIP submittal satisfying CAA section 182(a)(3)(B) on October 12, 1994 (59 FR 51517) and has approved Maryland's submissions for section 182(a)(3)(B) for each succeeding revision of the ozone NAAQS. Maryland's emissions reporting requirements are codified in Code of Maryland Regulations (COMAR) 26.11.01.05-1 "Emissions Statements." COMAR 26.11.01.05-1 requires sources that emit above specified thresholds of Nitrogen Oxides (NO<sub>x</sub>) or Volatile Organic Compounds (VOC) to submit an emissions statement to the State. The emissions threshold for reporting varies according to the county in which the source is located. The statement must be submitted by a certified individual who can verify the source's actual emissions.

In Maryland's July 6, 2020 SIP submittal, Maryland certifies that the existing COMAR

26.11.01.05-1 “Emissions Statements” continues to satisfy section 182(a)(3)(B) for the 2015 ozone NAAQS because Maryland has not made any changes since EPA’s prior approval and COMAR 26.11.01.05-1 meets the CAA requirements for emission statements. EPA finds that COMAR 26.11.01.05-1 continues to satisfy CAA section 182(a)(3)(B) because the existing rule is applicable to the entire State of Maryland and requires stationary sources that emit NO<sub>x</sub> or VOC to submit an emissions statement to the State detailing the sources’ emissions. EPA finds that Maryland’s emissions thresholds for stationary sources that are required to submit an emissions statement meet CAA requirements in sections 182 (plan submissions and requirements for ozone nonattainment areas) and 184 (Ozone Transport Region requirements). Therefore, EPA has determined that COMAR 26.11.01.05-1, which is currently in the Maryland SIP, is appropriate to address the emissions statement requirement in section 182(a)(3)(B) and is approving this SIP revision.

Other specific requirements of and the rationale for EPA’s proposed action are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

### **III. Final Action**

EPA is approving, as a SIP revision, the State of Maryland’s July 6, 2020 emissions statement certification for the 2015 ozone NAAQS as approvable under CAA section 182(a)(3)(B). Maryland’s emissions statement certification certifies that Maryland’s existing SIP-approved emissions statement program under COMAR 26.11.01.05-1 satisfies the requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

### **IV. Statutory and Executive Order Reviews**

#### *A. General Requirements*

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian

country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Dated:** August 28, 2021.

**Diana Esher,**  
*Acting Regional Administrator,*  
*Region III.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart V—Maryland**

2. In § 52.1070, the table in paragraph (e) is amended by adding an entry for “Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard” at the end of the table to read as follows:

#### **§ 52.1070 Identification of plan.**

\* \* \* \* \*

(e)\* \* \*

<b>Name of non-regulatory SIP revision</b>	<b>Applicable geographic area</b>	<b>State submittal date</b>	<b>EPA approval date</b>	<b>Additional explanation</b>
* * *	* *	* *	*	
Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard	State-wide	7/6/20	<b>[insert date of publication in the Federal Register], [insert Federal Register citation]</b>	Certification that Maryland’s previously approved regulation at COMAR 26.11.01.05-1 meets the emission statement requirements for the 2015 ozone NAAQS.